



Federal Communications Commission
Washington, D.C. 20554

JUN 2 1997

The Honorable Sue W. Kelly
U. S. House of Representatives
21 Old Main Street
Room #205
Fishkill, New York 12524

Dear Congresswoman Kelly:

Thank you for your letter dated December 27, 1996, on behalf of your constituent, Tom Gleason, regarding the Commission's policies with regard to licensing of 800 MHz Specialized Mobile Radio (SMR) systems. Mr. Gleason expresses concern that the Commission's modification of its 800 MHz SMR rules in PR Docket No. 93-144 have caused his service provider, NYCOMCO, to begin preparation to replace its existing radio system. NYCOMCO's letter to Mr. Gleason incorrectly implies that the passage of the new Telecommunications Act has mandated these changes.

On December 15, 1995, the Commission adopted a First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making (First Report and Order) in PR Docket No. 93-144. This proceeding was adopted prior to the signing of the Telecommunications Act of 1996 and was brought about so that the 800 MHz SMR service would be comparable to other Commercial Mobile Radio Service providers. The First Report and Order was adopted after consideration of extensive comments from all segments of the SMR industry, including comments from numerous small SMR operators. The Commission's decision also reflects months of work by Commission staff with SMR industry representatives in an effort to achieve consensus on key issues. As a result, the First Report and Order contains numerous provisions and proposals that are responsive to the concerns of existing SMR operators and those operating smaller systems, in particular. These include giving incumbent licensees greater flexibility within their existing service areas and establishing procedures to ensure that existing operators are protected from interference. For your convenience and information, enclosed is a copy of the Press Release concerning the First Report and Order, which includes a summary of the principal decisions and proposals made.

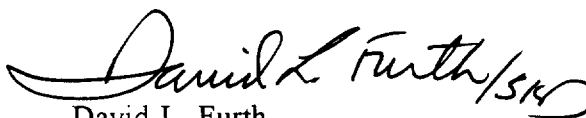
The Commission's decision to auction 800 MHz SMR spectrum is consistent with Section 309(j) of the Communications Act, which sets forth certain criteria for determining when auctions should be used to award spectrum licenses. Pursuant to these criteria, auctions are to be used to award mutually exclusive initial licenses or construction permits for services likely to involve the licensee receiving compensation from subscribers. The statute also requires that the Commission determine that auctioning the spectrum will further the public interest objectives of Section 309(j)(3) by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging efficient spectrum use. The Commission has concluded that auctioning of SMR licenses satisfies these criteria. In particular, we believe that auctions will minimize administrative or judicial delays in licensing, particularly in comparison to other licensing methods such as

comparative hearings, lotteries (which are specifically prohibited by the statute if the service is auctionable), or "first-come, first-served" procedures. We note that the statute does not distinguish between new services (such as Personal Communications Services) and existing services in terms of whether initial licenses in a given service are auctionable. Significantly, however, the Commission's decision to use auctions applies only to issuance of initial licenses in the service, and is not intended to affect rights afforded to licensees under existing authorizations.

The First Report and Order also contains important safeguards to ensure that the rights of incumbents are protected. First, no incumbent may be relocated unless comparable spectrum is available. Second, the incumbent must be provided with comparable facilities with the full cost borne by the wide-area licensee. Finally, the Commission is seeking additional public comment on what factors should be considered to ensure that alternative facilities are indeed comparable and relocated incumbents are made whole.

Thank you for your interest.

Sincerely,

A handwritten signature in black ink, reading "David L. Furth/sk". The signature is fluid and cursive, with a large initial "D" and a stylized "sk" at the end.

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

Enclosure

SUE W. KELLY
19TH DISTRICT, NEW YORK

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Congress of the United States
House of Representatives
Washington, DC 20515-3219

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December 27, 1996

Mr. Lou Sizemore
Congressional Specialist
Federal Communications Commission
Office of Congressional and Public Affairs
1919 M Street NW
Washington, D.C. 20554

Dear Mr. Sizemore:

My constituent, Tom Gleason, has contacted me for assistance on a problem with which your office might be able to help. I have enclosed all the information which we have been given on this particular case for your review.

I am anxious to assist my constituent in resolving this problem as soon as possible. Because of this, your prompt consideration would be most appreciated. Please direct any questions on this matter, to the attention of Elizabeth Mesquita in my Fishkill office at (914) 897-5200.

Thank you in advance for any assistance you may be able to provide.

Sincerely,



Sue W. Kelly
Member of Congress

SWK:em
Enclosure

**NEW YORK
COMMUNICATIONS CO., INC.**

53 West Cedar Street
Poughkeepsie, New York 12601
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November 11, 1996

Tom Gleason
Thomas Gleason
McKinley Lane
Poughkeepsie NY 12601

Dear Tom,

Your business is very important to us, that is the reason for this letter. Without you, we wouldn't be in the communications business. We have provided you with NYCOMCO's unequalled service and the most up to date equipment over the years. It has been our commitment to do what we can to keep you, our customer, satisfied with your communications system as economically as possible.

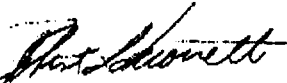
We have been faced with a problem brought upon us by the Federal Communications Commission that is going to affect you, our customer. This problem affects the frequencies that we use to operate the G-Marc radio system. The passing of the new Telecommunications bill is allocating these frequencies to systems with the latest technology, therefore, your G-Marc system will become obsolete. You will have to upgrade your system in 1997.

We will make every effort to make the transition as smooth as possible from G-Marc to the new technology known as EDACS (Enhanced Digital Access Communications System). EDACS will provide you with faster response time and a more efficient system. We will give you the best possible trade in on your equipment to put toward the new EDACS radios since your equipment will *not* work on the EDACS system.

As these frequencies are removed from the G-Marc system (it is happening already) you will be experiencing *busy* signals, *longer* waiting periods between communications, *no* access tones, etc.

When you are ready to make the transition give us a call and we will make the move as smooth as we possibly can.

Very truly yours,



Robert L. Lacouette
President

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Steve Markinsday
4/8-1324

Jim Kellogg